

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

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 IN THE MATTER OF: :
 :
 P Street Gourmet :
 Empanadas, LLC, :
 t/a Panas Gourmet Empanadas: Show Cause
 2029 P Street, NW : Hearing
 Retailer DR : (Status)
 License No. 88954 :
 Case No. 14-CMP-00157 :

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NOVEMBER 19, 2014

The Alcoholic Beverage Control Board met in the
 Alcoholic Beverage Control Hearing Room, Reeves
 Building, 2000 14th Street N.W., Washington,
 D.C., Chairperson Ruthanne Miller, presiding.

PRESENT

RUTHANNE MILLER, Chairperson
 NICK ALBERTI, Member
 DONALD BROOKS, Member
 HERMAN JONES, Member
 JAMES SHORT, Member
 MICHAEL SILVERSTEIN, Member
 HECTOR RODRIGUEZ, Member

ALSO PRESENT:

Mr. Michael Stern
 Ms. Maureen Zaniel

P R O C E E D I N G S

(12:15 p.m.)

MS. MILLER: Okay the next case on our calendar is scheduled for 11:00 is Case number 14-CMP-00157 Panas Gourmet Empanadas located at 2029 P Street Northwest, license number 88954 and ANC 2B. Are the parties here on this case?

MR. STERN: Michael Stern for the District. Ms. Zaniel has this case. She's here I believe she's in repose.

MS. MILLER: Oh. Okay, why don't we take a 5 minute break? Okay, let's take a 5 minute break and see if she's out of repose by then. Okay.

(Whereupon, the above-entitled matter went off the record at 11:15 a.m. and resumed at 12:15 p.m.)

MS. MILLER: Okay. We're back on the record for our last case of the morning and that is Case number 14-CMP-00157 Panas Gourmet Empanadas located at 2029 P Street Northwest, license number 88954 and ANC 2B. I guess it's

1 good afternoon, barely. Would you introduce
2 yourselves for the record, please?

3 MS. ZANIEL: Maureen Zaniel on behalf
4 of the District of Columbia.

5
6 MR. GARCIA-LOPEZ: I'm Federico
7 Garcia-Lopez, the owner of Panas.

8 MS. MILLER: Okay, so anyway, what's
9 scheduled on the calendar right now is a hearing
10 for this case but are there preliminary matters?

11 MS. ZANIEL: Yes. What is scheduled
12 is one of the cases for a Show Cause Hearing.
13 There are additionally two other pending cases
14 that we'd like to dispose of today with a
15 compromise that we are recommending to the Board.
16 The other two matters are 14-AUD-00066 and 14-
17 AUD-00098.

18 The compromise is as follows: There
19 will be a fine encompassing all three of \$5250,
20 the licensee will have 90 days within which to
21 pay that amount. If the amount is not fully paid
22 at the end of the 90 days, the license would be

1 automatically suspended. Moreover there are
2 outstanding quarterly statements. All quarterly
3 statements that are currently due are to be filed
4 not later than December 15 and with the same
5 contingency if the quarterly statements are not
6 filed by December 15 that would be a basis for
7 the automatic suspension of the license.

8 With respect to Case 14-AUD-00066, the
9 government will dismiss charge one and that's
10 because it's actually a charge that is
11 repetitive. It had already been charged in the
12 earlier case. That's the entirety of the OIC.
13 I've had conversations with Mr. Lopez and he, I
14 hope, will be working with ABRA to see if there's
15 some way to help his regulatory burden and we
16 believe this is a fair resolution in these
17 matters.

18 MS. MILLER: Okay, let me just clarify
19 for the record, we don't have a lot of
20 information on 00098 or 00066 but it's my
21 understanding from the investigative history that
22 these are also failure to file quarterly

1 statements.

2 MS. ZANIEL: That's correct.

3 MS. MILLER: And how many statements
4 are outstanding?

5 MS. ZANIEL: I think there are four
6 outstanding currently.

7 MS. MILLER: Oh, okay.

8 MR. GARCIA-LOPEZ: And I, if I may
9 speak.

10 MS. MILLER: Sure.

11 MR. GARCIA-LOPEZ: I think there are
12 two, the last quarter of 2013 and the first
13 quarter of 2014, that we, yes I think there are
14 two statements, the last quarter of 2013 and the
15 first quarter of 2014 that we actually did file
16 and were not received so I'm going to resubmit
17 those this afternoon.

18 MS. MILLER: Okay.

19 MR. GARCIA-LOPEZ: But unfortunately
20 before I came I didn't know that those two were
21 an issue but I'm pretty sure those were submitted
22 and I will check and see what happened there.

1 MS. MILLER: Okay. So you're going to
2 be submitting what tomorrow, a few of these
3 statements?

4 MR. GARCIA-LOPEZ: Definitely
5 tomorrow. I'm planning to work as soon as I get
6 back I'm planning to work on that, so hopefully
7 you'll have them by this afternoon.

8 MS. MILLER: Okay.

9 MR. JONES: But the OIC that you're
10 offering would call for you to have them
11 submitted no later than, was it 30 days?

12 MS. ZANIEL: December 15.

13
14 MR. JONES: December 15, okay, all
15 right.

16 MR. ALBERTI: Ms. Miller.

17 MS. MILLER: Yes.

18 MR. ALBERTI: Ms. Zaniel could you
19 just sort of, you gave us a total, but could you
20 enumerate the charges by case and separate them
21 just, just so we have it on the record. Thank
22 you.

1 MS. ZANIEL: Certainly. All right.
2 With respect to Case, and I'm just going to give
3 the last three numbers if that's satisfactory, is
4 that understandable that way?

5 MR. ALBERTI: Yes, ma'am.

6 MS. ZANIEL: Case number 157, the fine
7 would be \$1250 on each charge for a total of
8 \$2500. For Case number 66, and that's the one
9 wherein the government dismisses charge one, so
10 for charge two the fine is \$1250. Then with
11 respect to Case number 98, it's one charge and
12 the fine is \$1500 for the total of \$5250.

13 MS. MILLER: Other questions? Is
14 your, are you Mr. Lopez?

15 MR. GARCIA-LOPEZ: Yes.

16 MS. MILLER: Okay. That's the name on
17 my file. Okay, so I want to reiterate the offer
18 and compromise to you and make sure that you
19 accept it. It's for three cases, Cases 157, 066
20 and 098. A fine of \$5250 total to be paid within
21 90 days and if it's not paid within 90 days then
22 the license will be automatically suspended until

1 it's paid in full and then also that you will
2 file all outstanding quarterly statements no
3 later than December 15 and if there are any
4 outstanding quarterly statements after that date
5 that should have been filed by December 15 then
6 the license will also be suspended until that
7 filing is made.

8 MR. GARCIA-LOPEZ: Yes, I understand
9 the terms. I wish we were able to get a, this
10 for us is a huge fine, a small, very small
11 operation. Alcohol is not the main, it's less
12 than five percent of our total sales so this fine
13 is probably two or three months' worth of net
14 income.

15 MR. JONES: I'm sorry?

16 MR. GARCIA-LOPEZ: This fine
17 represents two or three months' worth of net
18 income for us. It's a huge, huge fine, but
19 without any other options, we accept the terms.

20 MS. MILLER: Okay, let me just ask you
21 also do you know you waive your right to a
22 hearing by accepting this offer and compromise

1 and appeal?

2 MR. GARCIA-LOPEZ: Yes.

3 MS. MILLER: Okay. Well I will say
4 that what you spoke to I'm glad that you may be
5 meeting with agency personnel to try to work this
6 out in general how you can comply with the law,
7 you know, in the future so that this, you don't
8 get caught up in this again. Okay, any
9 questions? Mr. Jones.

10 MR. JONES: Thank you, Madam Chair.
11 Sir, two questions. One, the, what, how did you
12 arrive at the, well, excuse me, what number
13 secondary violation is this? Meaning is this
14 their fifth, twenty-fifth? What did you use to
15 get to that point?

16 MS. ZANIEL: I think it is the fifth
17 by the time the third case comes in.

18 MR. JONES: Fifth? And the second
19 one? Excuse me?

20 MR. ALBERTI: I was confused by what
21 she said by the time the third case, so, so, so
22 as of, as of 157 with is the earliest case, how

1 many, how many does this make?

2 MR. JONES: Or, okay, so prior to 157,
3 they had four secondary tier?

4 MS. ZANIEL: No. 157 I think is the
5 fourth.

6 MR. ALBERTI: That's what I was
7 implying. Got it. Okay, I don't know if it's
8 accurate, but.

9 MR. JONES: No, no, no, so 157 is the
10 fourth, so that means prior to 157 they had three
11 --

12 MS. ZANIEL: Correct.

13 MR. JONES: within three years and the
14 fourth would be four within four years.

15 MS. ZANIEL: Correct.

16 MR. JONES: Or am I counting that
17 wrong.

18 MS. ZANIEL: Well my notes indicate
19 that 157 is the fourth secondary tier violation.

20 MR. JONES: Okay. So we'll assume
21 it's within the appropriate time period.

22 MS. ZANIEL: Correct.

1 MR. JONES: So, that's their fourth,
2 so and the second part of the question that I had
3 was going forward this is a global settlement or
4 a settlement for all three of these?

5 MS. ZANIEL: Correct.

6 MR. JONES: But will they be, is it
7 your presentation as part of the OIC that these
8 will be the fourth, fifth and sixth secondary
9 tier violations?

10 MS. ZANIEL: Well, the licensee and I
11 have had no discussion about that. I don't know
12 whether the Board has a procedure that it follows
13 with respect to that or not.

14 MR. JONES: Got it. Fair enough.
15 That's all I needed. Thank you. Thank you,
16 Madam Chair.

17 MS. MILLER: Yes, Mr. Rodriguez.

18 MR. RODRIGUEZ: Madam Chair, am I
19 allowed to ask Mr. Lopez some questions or?

20 MS. MILLER: If, if, yes, if it'll
21 help you determine you vote on the OIC.

22 MR. RODRIGUEZ: Yes, I, your business

1 is a fairly small business is it? How large is
2 your business? How many employees do you have?

3 MR. GARCIA-LOPEZ: We have, it's, the
4 space is 1100 square feet. We have about six
5 employees, six to eight, you know.

6 MR. RODRIGUEZ: Right, and how long
7 have you been in business, Mr. Lopez?

8 MR. GARCIA-LOPEZ: We opened the, this
9 was our first location. We opened in August of
10 2010.

11 MR. RODRIGUEZ: Okay. So you've been
12 in business about --

13 MR. GARCIA-LOPEZ: Four, four and a
14 half years.

15 MR. RODRIGUEZ: Four and a half years.
16 One of the things that concerns me is that, you
17 know, small businesses having to deal with, you
18 know, fines but one of the concerns is, that I
19 have is about your reports. Now your fines are
20 mostly about lack of doing your quarterly reports
21 and so my question is, you know, and I'm kind of,
22 you know, upset that you would have to pay fines

1 for reports that possibly you could have done
2 but, so my question is what created the situation
3 that you're not able to do these quarterly
4 reports? We do have, and obviously you have that
5 you're able to space them out, so it's not a
6 matter of bi, we do have bilingual staff here in
7 ABRA that very well work with you, but that's not
8 a problem, right? So my question is, you know,
9 and I'm intrigued by this, is why the delay in
10 these reports? What is causing this delay? Is
11 it a technical matter? Is it that you're busy? I
12 want to understand this. I'm new on the Board.

13 MR. GARCIA-LOPEZ: Okay. The one of
14 the biggest challenges that we've had is hiring
15 people and keeping people. There's, you know, as
16 you might know there's a huge influx of national
17 chains of restaurants in the District and in the
18 area in general that, you know, when we, you
19 know, hire a manager this was a responsibility
20 that was delegated to management and it has been
21 delegated to the management.

22 MR. RODRIGUEZ: Can you speak a little

1 louder? I can't.

2 MR. GARCIA-LOPEZ: Yes. This
3 responsibility of filing the reports was
4 delegated to a manager assigned to manage that
5 location. We have a second location in Bethesda,
6 Maryland and we have our production facility in
7 Rockville, so I'm involved in managing all three.
8 We're making the product locally and actually
9 selling it in 27 states, the empanadas. So it's
10 been, you know, kind of a struggle on my part to
11 keep, you know, this on top of, staying on top of
12 this and its usually been associated with
13 somebody leaving falling through the cracks and
14 so it's, you know, like I said it's a very costly
15 fine for, in a way I mean it's my responsibility
16 as manager of the entire business, and it's just
17 sometimes there's so many other, you know, urgent
18 matters and this unfortunately has

19 MR. RODRIGUEZ: Okay, so you have a
20 manager then is responsible for doing these
21 quarterly reports is what you're --

22 MR. GARCIA-LOPEZ: We had a lot of

1 turnover in that position so when, usually if we
2 track our turnover and when the reports were, we
3 didn't file the reports usually it's a
4 correlation between those two issues, so.

5 MR. RODRIGUEZ: So are you ever privy
6 to notices that your reports are late or is, does
7 your manager report to you about these?

8 MR. GARCIA-LOPEZ: Well in some cases
9 they fail to report and so we found out, when we
10 found, when I found out it was too late, so it
11 was already past the past due deadline and so.

12 MR. RODRIGUEZ: Is your manager still
13 working for you?

14 MR. GARCIA-LOPEZ: No.

15 MR. RODRIGUEZ: Okay.

16 MR. GARCIA-LOPEZ: We had three
17 different people in that position and in all
18 three cases they got job offers at one of these
19 major chains. It's like we are the training
20 grounds for it.

21 MR. RODRIGUEZ: Right.

22 MR. GARCIA-LOPEZ: You know, same with

1 the ABC manager license. As soon as we pay for
2 it, we get them through it, they find a job with
3 a --

4 MR. RODRIGUEZ: So you're
5 acknowledging that obviously the final
6 responsibility lands with you as the owner to
7 manage your people but you're saying to me,
8 you're saying to me that the managers did not
9 report the, this to you that the quarterly
10 reports were due?

11 MR. GARCIA-LOPEZ: Right. In some
12 cases either the manager was, you know, left the
13 position before, right at around the time the
14 report was due and so in the transition it fell
15 through the cracks or they failed to acknowledge
16 that they forgot to file the report and when I
17 found out it was, you know, way too late.

18 MR. RODRIGUEZ: Do you have a new
19 manager now?

20 MR. GARCIA-LOPEZ: We have one person
21 that we're training.

22 MR. RODRIGUEZ: He's being trained,

1 right, or she's being trained?

2 MR. GARCIA-LOPEZ: Yes, he's being
3 trained.

4 MR. RODRIGUEZ: By staff here?

5 MR. GARCIA-LOPEZ: By myself. We're
6 a very small company, yes.

7 MR. RODRIGUEZ: Right, I, right.
8 Well I just, I was just concerned about why all
9 the, you know, why this happened to a small
10 business like yourself where maybe you can keep a
11 closer eye on, you know, on things and I like
12 empanadas by the way.

13 MR. GARCIA-LOPEZ: Thank you.

14 MR. RODRIGUEZ: But I'm very concerned
15 about this and I'm hoping that maybe, you know,
16 things can be improved here so that, you know,
17 your business does not incur these fines and I've
18 heard good compliments about your business on the
19 other hand of people who have visited but anyway
20 I thank you and I'm hoping that things will
21 improve here.

22 MR. GARCIA-LOPEZ: Thank you.

1 MR. RODRIGUEZ: Thank you, sir.

2 MS. MILLER: Okay. Mr. Short.

3 MR. SHORT: Good afternoon, sir. How
4 are you doing?

5 MR. GARCIA-LOPEZ: Good afternoon.

6 MR. SHORT: Great. Did I just hear
7 you say you have businesses in other
8 jurisdictions around the country?

9 MR. GARCIA-LOPEZ: Not around the
10 country. We have one more location in Bethesda,
11 Maryland and then we have our wholesale business.
12 I started the company four and a half years ago
13 and we started as, you know, making empanadas and
14 selling them wholesale. So we sell them to
15 several supermarket chains.

16 MR. SHORT: Do you have the same
17 problems you're your bookkeeping in Maryland as
18 you have here in the District?

19 MR. GARCIA-LOPEZ: Nope, nope.

20 MR. SHORT: Why is that?

21 MR. GARCIA-LOPEZ: We had a lot more
22 turnover in our DC location than in Maryland, so

1 in Maryland we had the same manager for almost
2 three years and in our DuPont Circle location we
3 have three managers or almost four managers since
4 we opened.

5 MR. SHORT: So, no fines in Maryland,
6 just fines here in the District of Columbia?

7 MR. GARCIA-LOPEZ: Yes.

8 MR. SHORT: Have you come up with a
9 business plan that would help you get out of that
10 dilemma?

11 MR. GARCIA-LOPEZ: It's, you know, I'm
12 going to have to stay on top of it no matter who,
13 who's in charge, you know, it's got to become
14 something permanent on my to do list until, you
15 know, we've, there's really not many other things
16 I can tell you I can do. It's just going to have
17 to be on my list of things to do and, you know,
18 I'll have to, you know, keep a much closer eye on
19 it.

20 MR. SHORT: Okay, so your business is
21 a pretty good business I understand.

22 MR. GARCIA-LOPEZ: It's, I think, you

1 know, we're, you know we're going through some
2 tough times. I mean it's not, everything's not
3 great. I mean from the customer perspective I
4 think we have great reviews and we have a healthy
5 product, people like it, we're becoming kind of a
6 recognized brand in DC, especially in DC.
7 Internally it's a little more challenging we
8 have, but, yes.

9 MR. SHORT: Okay, thank you, Madam
10 Chair. That's all I have.

11 MS. MILLER: Okay. All right. Other
12 questions? Okay. Where we left off, I'm sure I
13 believe I asked you Mr. Lopez did I read you the
14 offer and compromise, have you agreed to it?

15 MR. GARCIA-LOPEZ: Yes, I do.

16 MS. MILLER: Okay. All right. Okay,
17 then I'm going to move to approve this offer and
18 compromise which consists of a penalty of \$5250
19 for three cases, that's cases 157, 066, 098.
20 That fine will be paid within 90 days and if it
21 is not paid in full within 90 days then the
22 license will be suspended until it is paid.

1 Quarterly statements that are outstanding will be
2 filed not later than December 15. After that
3 date if there's any outstanding quarterly
4 statement that was due by December 15 that has
5 not been filed, then the license will be
6 suspended until the filing of any of those
7 outstanding quarterly statements. I believe that
8 covers it. Do I have a second?

9 MR. SILVERSTEIN: Second.

10 MS. MILLER: Mr. Silverstein seconded
11 the motion. All those in favor say aye.

12 (Chorus of ayes.)

13 MS. MILLER: All those opposed? All
14 those abstaining? Motion passes 7, 0, 0. Mr.
15 Silverstein?

16 MR. SILVERSTEIN: Madam Chair, I would
17 like to express and second the concerns that my
18 colleague, Mr. Rodriguez has. I'm a neighbor of
19 yours. I go to your establishment. It doesn't
20 really create a peep as far as peace, order and
21 quiet is concerned. You're good neighbors and
22 you're beloved in the community as a very small

1 business. It's sad, you know, that something
2 like this would hit a business this small and on
3 the edge like yours. But we have to treat
4 everyone equally and all I would ask is that if
5 you have any problems at all with record keeping
6 or questions, we have a staff that will work hard
7 to help you before these things happen and I take
8 no pleasure at all in supporting this fine and I
9 wish you well as a good neighbor.

10 MR. GARCIA-LOPEZ: Thank you.

11 MR. ALBERTI: I second that.

12 MS. MILLER: Mr. Jones.

13 MR. JONES: Well I'm the rain in the
14 parade, right, so I'm just going to make it very
15 clear. You have a license. You have a
16 obligation. We're not treating you any
17 differently than anybody else, big or small. You
18 got to file your reports. There's no excuse not
19 to. It's in your domain area of control. I
20 understand you had turnover but it's still your
21 responsibility. We're not going to do your
22 paperwork for you. Yes, we have staff here to

1 help you if you have questions or concerns about
2 something you don't understand but we're not
3 going to do your paperwork for you, not going to
4 do your books for you, so it's still on you to
5 make sure you get your documents here on time.
6 Period. Point blank. No exception, no excuse and
7 if you happen to have this situation happen again
8 it looks like it might be your seventh secondary
9 tier violation. That's a problem, so I
10 understand that you're saying you're going to it
11 seriously, but don't let the well wishes of the
12 other Board members help you not feel as pressed
13 about making sure that this takes place in an
14 appropriate fashion. You need to make sure it
15 happens. Do you understand?

16 MR. GARCIA-LOPEZ: I understand. If
17 I may comment something, I think what you said
18 that you don't treat small business and large
19 business differently is something that I take
20 issue with because in a way it creates an unequal
21 playing field. Large business usually has, you
22 know, many more resources, both from the

1 bookkeeping side, from the attracting and
2 retaining employees, so in a way, you know, it's,
3 I have a little bit of an issue with that because
4 I wish you would have some way to help small
5 businesses, you know, grow and become bigger
6 businesses.

7 MR. JONES: Duly noted.

8 MS. ZANIEL: And you should certainly
9 talk to a council member, or all of them.

10 MS. MILLER: Yes, Mr. Rodriguez.

11 MR. RODRIGUEZ: I believe that the
12 well-wishers were not looking at throwing
13 flowers. What we were looking at is trying to
14 find out what the problem was and work with the
15 problem and see what kind of solutions are there
16 and it was not throwing roses but making sure
17 that we review what the problem is, which is our
18 responsibility and in no way negated the fine
19 that was imposed, but asking that the gentleman
20 work with our staff and looking to solve the
21 problem in some kind of fashionable way and
22 responsible. Thank you, Madam Chair, for the

1 record.

2 MS. MILLER: Okay. All right. Well,
3 thank you very much and, you know, we hope we
4 don't see you here again even though it's been
5 nice talking with you and if you have any
6 suggestions, feel free to pass them on to, you
7 know, our staff. All right. Thank you.

8 MR. GARCIA-LOPEZ: Thank you.

9 MS. MILLER: And that concludes this
10 case. You'll get a written order. I don't know
11 exactly when but putting this all in writing.
12 Okay.

13 MS. ZANIEL: Thank you.

14 MS. MILLER: Okay, thank you. So that
15 concludes this morning's business and most likely
16 we'll return around 1:30 or so for this
17 afternoon's protest. 1:30, okay, let's get going
18 then.

19 (Whereupon, the above-entitled matter
20 concluded at 12:40 p.m.)
21
22

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